

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Telecommunications Relay Services and)	CG Docket No. 03-123
Speech-to-Speech Services for Individuals with)	
Hearing and Speech Disabilities)	
)	
Structure and Practice of the Video Relay Service)	CG Docket No. 10-51
Program)	
)	
Interstate Telecommunications Relay Services Fund)	
Payment Formula and Fund Size Estimate for the)	
July 2013 Through June 2014 Fund Year)	

To: Secretary, FCC
For: Chief, Consumer & Governmental Affairs Bureau

REPLY COMMENTS OF HAMILTON RELAY, INC.

Hamilton Relay, Inc. (“Hamilton”), by its counsel, hereby submits these reply comments concerning the May 17, 2013 *Public Notice* (“*Notice*”) issued by the Consumer & Governmental Affairs Bureau (“Bureau”) in the above-captioned proceedings.¹ In the *Notice*, the Bureau sought comment on the proposed compensation rates for various forms of interstate Telecommunications Relay Services (“TRS”) for the period beginning July 1, 2013 through June 30, 2014, and on the projected fund size for the interstate TRS Fund, as submitted by the interstate TRS Fund Administrator (“Administrator”) in its May 1, 2013 filing (“*2013 TRS Rate Filing*”).² Hamilton submitted its initial comments on May 31, 2013.³

¹ *Rolka Loube Saltzer Associates Submits Payment Formulas and Funding Requirement for the Interstate Telecommunications Relay Services Fund for the July 2013 Through June 2014 Fund Year*, Public Notice, CG Docket Nos. 03-123, 10-51, DA 13-1137 (rel. May 17, 2013) (“*Notice*”).

² See Rolka Loube Saltzer Associates LLC, Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate, CG Docket Nos. 03-123, 10-51 (filed May 1, 2013) (“*2013 TRS Rate Filing*”).

³ Comments of Hamilton Relay, Inc. (filed May 31, 2013).

Hamilton's comments in this proceeding generally supported the Administrator's proposed rates, but argued that the Internet Protocol Captioned Telephone Service ("IP CTS") rate should be adopted for the entire 2013-2014 period rather than on an interim basis. Hamilton also argued that the Administrator currently lacks sufficient data to make an informed projection of the estimated TRS Fund size for 2013-2014, in part because the IP CTS growth forecasts do not take into account recent interim rule changes. Hamilton concluded that until the Administrator can assess at least one month of data during which all providers are in compliance with the interim rules, the Administrator's projections of unabated IP CTS growth will continue to be inaccurate and irrational for purposes of calculating the estimated TRS Fund size.

Hamilton is submitting these reply comments to note the consensus of opinion among commenters concerning the unacceptably inflated TRS fund size projection, and to provide additional comments on the proposed IP CTS rate.

I. The Projected TRS Fund Size Should Be Significantly Lowered

A majority of commenters agree with Hamilton that the Administrator's projected TRS fund size is grossly inaccurate because it fails to account for the adoption of interim IP CTS rules that are predicted to significantly slow IP CTS growth.⁴ Commenters support using an estimation of annual IP CTS minutes of use based on data submitted by IP CTS providers, which totals 181,429,401 million minutes of use (the "Industry Projection"), rather than the various

⁴ See, e.g., Comments of the United States Telecom Association, at 2-3 (filed May 31, 2013) ("USTA Comments"); Comments of NobelTel, LLC, at 4-6 (filed May 31, 2013); Comments of IDT Telecom, Inc. *et al.*, at 4-5 (filed May 31, 2013) ("IDT Comments"); Comments of The Independent Telephone & Telecommunications Alliance, at 3-5 (filed May 31, 2013) ("ITTA Comments").

alternative projections of IP CTS use suggested by the Administrator.⁵ Hamilton supports the use of the Industry Projection for projecting the TRS fund size, at least until the Administrator can calculate a more accurate projected fund size based on at least one full month of IP CTS minutes of use data that reflect compliance by all IP CTS providers with the interim rules.⁶

Hamilton also agrees with USTA that it would be irrational to ignore the impact of the Commission's interim IP CTS rules which, as the Administrator acknowledges, will "dampen the continued rapid increase in IP CTS demand."⁷ Ignoring the impact of these rules will unnecessarily inflate the projected size of the TRS fund and, in the process, harm contributors to the TRS fund and, ultimately, consumers.⁸

II. IP CTS Growth Is the Issue, Not the IP CTS Rate

Hamilton believes that the emphasis that some commenters place on changing the IP CTS reimbursement rate is misplaced.⁹ The problem is not the reimbursement rate but the unsustainable increase in IP CTS minutes of use based on the marketing practices of Sorenson that have since been banned by the interim IP CTS rules. Although the interim rules are being challenged in court by Sorenson,¹⁰ initial indications are that the interim rules have had a noticeable impact in terms of curbing fund growth.

⁵ ITTA Comments, at 2 (filed May 31, 2013); USTA Comments, at 3-4; Comments of Sorenson Communications, Inc. and CaptionCall LLC, at 3 ("Sorenson Comments").

⁶ Hamilton Comments at 7.

⁷ USTA Comments at 5 (quoting *2013 TRS Rate Filing*, at 25).

⁸ *Id.* at 8. Hamilton also agrees that the Commission should consider altering the timeline for adopting the annual TRS rates, projected TRS fund size, and TRS contribution factor so that they better harmonize with the dates that annual access tariff filings are due, in order to provide more certainty to TRS fund contributors. *See id.* at 11-12.

⁹ *See* IDT Comments at 6-7; Sorenson Comments at 4-5.

¹⁰ *Sorenson Communications, Inc. v. FCC*, No. 13-1122 (D.C. Cir. filed Apr. 8, 2013); *see also* Sorenson Motion for Summary Reversal (D.C. Cir. filed May 24, 2013).

In sum, there is no justification for revising the IP CTS rate methodology. The full effects of the recent interim IP CTS rules are unknown, and it is unclear whether those rules will be made permanent. Hamilton believes that if all providers comply with the interim IP CTS rules, it will be readily apparent that the growth curve for IP CTS minutes of use will have returned to historic patterns in the months ahead and, to the extent those rules are made permanent, in the years ahead as well. Returning to those historic growth levels will significantly decrease pressure on the TRS fund size and obviate the need to alter the MARS-based IP CTS rate which, as Hamilton has shown and the Commission has already concluded, compensates IP CTS providers at a reasonable rate.

Respectfully submitted,

HAMILTON RELAY, INC.

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